

FILED
JAN 14 2011
DENNIS P. JAVARONE, CLERK
US DISTRICT COURT, EDNC
BY _____ DEP CLK

Respondent.

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counsel, who shall file a notice of appearance within five (5) days of this order. Respondent's substantive motions which were filed *pro se* at a time when respondent was represented by counsel shall not be considered by this Court. The Court's specific rulings on each motion are more particularly described below.

Because respondent has expressed his desires regarding his representation in a more recent motion, the Court will not consider respondent's earlier filed motion to proceed *pro se*. Respondent had requested to proceed *pro se* in a motion filed July 22, 2010 (D.E. # 16), but respondent did not pursue said request after the appointment of Mr. Crumpler, who entered a notice of appearance on July 25, 2010 (D.E. # 17). In respondent's motion filed January 5, 2011, he now seeks to proceed *pro se* only "until another counsel can be appointed." Mot. at 2 (D.E. # 21). Therefore, respondent's motion entitled "Motion for Leave to Proceed Pro Se," filed *pro se* on July 22, 2010 (D.E. # 16), is hereby DISMISSED AS MOOT.

For the reasons stated in Mr. Crumpler's motion, his request to withdraw is granted. Neither respondent nor the government has objected to Mr. Crumpler's motion to withdraw. Respondent's "Motion to Proceed In [*sic*] Pro Se and for Court Appointed Counsel to Withdraw or Co-Counsel to Be Appointed," filed January 5, 2011 (D.E. # 21), may fairly be considered respondent's response to Mr. Crumpler's motion to withdraw, and said document contains no objection to Mr. Crumpler's motion to withdraw. On the same day that docket entry # 21 was filed, the government filed a response thereto, which contained no objection to Mr. Crumpler's motion to withdraw. Therefore, Mr. Crumpler's motion to withdraw (D.E. # 19) is hereby ALLOWED.

The Federal Public Defender is hereby DIRECTED to refer this case to substitute counsel, who shall enter a Notice of Appearance within five (5) days of the date of this order.

Respondent presently requests to proceed *pro se* only “until another counsel can be appointed. . . . In the alternative, this [C]ourt should allow another counsel to be appointed” Mot. at 2 (D.E. # 21). The Court is directing the immediate appointment of substitute counsel, in accord with one of the alternatives requested by respondent. Therefore, insofar as respondent has requested the appointment of substitute counsel, his “Motion to Proceed In [*sic*] Pro Se and for Court Appointed Counsel to Withdraw or Co-Counsel to Be Appointed,” filed January 5, 2011 (D.E. # 21), is hereby ALLOWED.

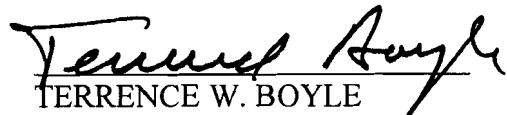
The Court will not consider respondent’s substantive motions filed while respondent was represented by counsel. Although Mr. Crumpler had filed a motion to withdraw, he remained the attorney of record on January 5, 2011, when respondent filed both the *pro se* motion entitled, “Motion for Temporary Restraining Order and Preliminary [*sic*] Injunction Pursuant to Federal Rules of Civil Procedure 65 (a)(b),” (D.E. # 22) and the *pro se* motion to dismiss (D.E. # 23). These motions must be stricken because they are not signed by the attorney of record. *See* Fed. R. Civ. P. 11(a). Therefore, respondent’s motion entitled, “Motion for Temporary Restraining Order and Preliminary [*sic*] Injunction Pursuant to Federal Rules of Civil Procedure 65 (a)(b)” (D.E. # 22) and respondent’s motion to dismiss (D.E. # 23) are hereby DISMISSED.

In summary, the motions before the court are disposed as follows:

1. Respondent’s motion entitled “Motion for Leave to Proceed Pro Se,” filed *pro se* on July 22, 2010 (D.E. # 16) is hereby DISMISSED AS MOOT;

2. Motion to withdraw, filed by J. Allen Crumpler, III, counsel of record for respondent, on December 13, 2010 (D.E. # 19) is hereby ALLOWED, and the Federal Public Defender is hereby DIRECTED to refer this case to substitute counsel, who shall enter a Notice of Appearance within five (5) days of the date of this order;
3. Respondent's motion entitled, "Motion to Proceed In [*sic*] Pro Se and for Court Appointed Counsel to Withdraw or Co-Counsel to Be Appointed," filed *pro se* January 5, 2011 (D.E. # 21) is hereby ALLOWED;
4. Respondent's motion entitled, "Motion for Temporary Restraining Order and Preliminary [*sic*] Injunction Pursuant to Federal Rules of Civil Procedure 65 (a)(b)," filed *pro se* on January 5, 2011 (D.E. # 22) is hereby DISMISSED; and
5. Respondent's motion to dismiss, filed *pro se* on January 5, 2011 (D.E. # 23) is hereby DISMISSED.

SO ORDERED, this 17 day of January 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE